

REMARKS/ARGUMENTS

I. Status of the Claims

Claims 45-56 and 70-76 are currently pending. Claims 57-69 are canceled. Claims 45 and 46 have been amended. No new matter is added. Support for the amendments is supported by the specification.

Rejections Under 35 U.S.C. 102(b)

The Office Action has maintained the rejection of claims 45-76 under 35 U.S.C. §102(b) for allegedly being anticipated by Vandekerckhove *et al.* ("Substrate Specificity of the *Trypanosoma cruzi* trans-sialidase," *Glycobiology*, **2(6)**, 541-548 (1992))("Vandekerckhove"). In view of the amendments to the claims and the remarks made herein, Applicants respectfully request that this rejection be withdrawn.

In maintaining the rejection the Office Action asserts that the purified $\alpha(2-3)$ sialyllactose prepared in the reference is identical to that recited in the claims, despite the different starting material.

In the spirit of expediting prosecution and without conceding as to the correctness of the rejection, the claims have been amended to recite "A dairy source enriched in $\alpha(2-3)$ sialyllactose". Therefore, the claims are directed to a dairy source that is enriched in $\alpha(2-3)$ sialyllactose instead of a $\alpha(2-3)$ sialyllactose existing in a purified state.

In contrast, Vandekerckhove discloses the preparation of $\alpha(2-3)$ sialyllactose by contacting lactose with $\alpha(2-3)$ trans-sialidase from *Trypanosoma cruzi* in the presence of various oligosaccharides. Vandekerckhove does not teach or suggest a dairy source, such as milk, colostruma, cheese processing mixture, or cheese processing waste stream, that is enriched in $\alpha(2-3)$ sialyllactose.

To maintain a *prima facie* case of anticipation, the Examiner must demonstrate that each and every element as set forth in the claim is either expressly found or is inherently described in

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a single prior art reference. The identical invention must be shown in as complete detail as is contained in the ...claim. See MPEP § 2131.

Since Vandekerckhove does not teach a dairy source that is enriched in $\alpha(2-3)$ sialyllactose, it fails to teach each and every limitation as found in the currently pending claims. As such, Applicants respectfully request that this rejection be withdrawn.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-442-1000.

Respectfully submitted,



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